

6504

I N   S E N A T E

February 17, 2012

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Introduced by Sen. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the education law, in relation to requiring nebulizers on school grounds; and to amend chapter 672 of the laws of 2007, amending the education law relating to the maintenance of on-site nebulizers, in relation to the effectiveness thereof; and making an appropriation therefor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The education law is amended by adding a new section 804-e  
2     to read as follows:

3     S 804-E. NEBULIZER INSTRUCTION. INSTRUCTIONS REGARDING THE CORRECT USE  
4     OF A NEBULIZER SHALL BE INCLUDED AS A PART OF THE HEALTH EDUCATION  
5     CURRICULUM IN ALL SENIOR HIGH SCHOOLS WHEN CARDIOPULMONARY RESUSCITATION  
6     INSTRUCTION IS BEING PROVIDED AS AUTHORIZED BY SECTION EIGHT HUNDRED  
7     FOUR-C OF THIS ARTICLE. PERSONS INSTRUCTING PUPILS IN THE CORRECT USE  
8     OF NEBULIZERS SHALL POSSESS VALID CERTIFICATION BY A NATIONALLY RECOG-  
9     NIZED ORGANIZATION OR THE STATE EMERGENCY MEDICAL SERVICES COUNCIL  
10    OFFERING CERTIFICATION IN THE OPERATION OF A NEBULIZER AND IN ITS  
11    INSTRUCTION.

12    S 2. Section 919 of the education law, as amended by chapter 42 of the  
13    laws of 2008, is amended to read as follows:

14    S 919. On-site nebulizers. 1. [The board of education or trustees of  
15    the school district responsible for providing health services in a  
16    school, or the board of cooperative educational services in the case of  
17    programs under its jurisdiction] SCHOOL DISTRICTS, BOARDS OF COOPERATIVE  
18    EDUCATIONAL SERVICES, COUNTY VOCATIONAL EDUCATION AND EXTENSION BOARDS  
19    AND CHARTER SCHOOLS, shall [make] PROVIDE AND MAINTAIN a nebulizer  
20    [available] on-site in every public and private school building in  
21    [which full or part time nurse services are provided] A MANNER THAT  
22    ENSURES READY AND APPROPRIATE ACCESS FOR USE DURING EMERGENCIES.

23    2. Nebulizers in such school buildings shall be made available to  
24    allow reasonable access to all public and private school students with a  
25    patient specific order, who require inhaled medications administered by

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 a nebulizer, provided, however, that nebulizers shall be administered by  
2 a school nurse or physician pursuant to the student's patient specific  
3 order. Every nebulizer shall be maintained in working order by the  
4 school district or board of cooperative educational services that  
5 provides school health services to the school building where the nebu-  
6 lizer is located.

7 [2.] 3. WHENEVER PUBLIC OR PRIVATE SCHOOL FACILITIES PURSUANT TO  
8 SUBDIVISION ONE OF THIS SECTION ARE USED FOR SCHOOL SPONSORED OR SCHOOL  
9 APPROVED CURRICULAR OR EXTRACURRICULAR EVENTS OR ACTIVITIES AND WHENEVER  
10 A SCHOOL-SPONSORED ATHLETIC CONTEST IS HELD AT ANY LOCATION, THE PUBLIC  
11 SCHOOL OFFICIALS AND ADMINISTRATORS RESPONSIBLE FOR SUCH SCHOOL FACILITY  
12 OR ATHLETIC CONTEST SHALL ENSURE THE PRESENCE OF AT LEAST ONE STAFF  
13 PERSON WHO IS TRAINED IN THE OPERATION AND USE OF A NEBULIZER. WHERE A  
14 SCHOOL-SPONSORED COMPETITIVE ATHLETIC EVENT IS HELD AT A SITE OTHER THAN  
15 A PUBLIC SCHOOL FACILITY, THE PUBLIC SCHOOL OFFICIALS SHALL ASSURE THAT  
16 A NEBULIZER IS PROVIDED ON-SITE.

17 4. ANY EMPLOYEE OR OTHER AGENT OF ANY SCHOOL DISTRICT, BOARD OF COOP-  
18 ERATIVE EDUCATIONAL SERVICES, COUNTY VOCATIONAL EDUCATION AND EXTENSION  
19 BOARD AND CHARTER SCHOOL WHO, IN ACCORDANCE WITH THE PROVISIONS OF THIS  
20 SECTION, VOLUNTARILY AND WITHOUT EXPECTATION OF MONETARY COMPENSATION  
21 RENDERS EMERGENCY MEDICAL OR FIRST AID TREATMENT USING A NEBULIZER WHICH  
22 HAS BEEN MADE AVAILABLE PURSUANT TO THIS SECTION, TO A PERSON WHO IS  
23 UNCONSCIOUS, ILL OR INJURED, SHALL BE LIABLE ONLY PURSUANT TO SUBDIVI-  
24 SION ONE OF SECTION THREE THOUSAND-A OF THE PUBLIC HEALTH LAW.

25 5. The commissioner shall be authorized to promulgate regulations for  
26 the implementation of this section.

27 S 3. Section 2 of chapter 672 of the laws of 2007, amending the educa-  
28 tion law relating to the maintenance of on-site nebulizers, is amended  
29 to read as follows:

30 S 2. This act shall take effect September 1, 2007[; provided, however,  
31 that if upon such effective date, an appropriation to the education  
32 department shall not have been made for reimbursement of school  
33 districts and boards of cooperative educational services for the  
34 purposes of implementing the provisions of section 919 of the education  
35 law, as added by section one of this act, then this act shall take  
36 effect on the forty-fifth day after such an appropriation is made, and  
37 provided, further, that the division of the budget shall notify the  
38 legislative bill drafting commission on September 1, 2007 whether such  
39 an appropriation has been made, and if such appropriation shall not have  
40 been made on or before such date, the division of the budget shall noti-  
41 fy the legislative bill drafting commission upon the date such an appro-  
42 priation shall have been made, in order that the commission may maintain  
43 an accurate and timely effective data base of the official text of the  
44 laws of the state of New York in furtherance of effectuating the  
45 provisions of section 44 of the legislative law and section 70-b of the  
46 public officers law].

47 S 4. The state of New York shall make an appropriation to the depart-  
48 ment of education for reimbursement of school districts and boards of  
49 cooperative educational services for the purposes of implementing this  
50 act.

51 S 5. This act shall take effect on the one hundred twentieth day  
52 after it shall have become a law; provided, however, that section three  
53 of this act shall take effect immediately; provided, further, that  
54 effective immediately, the addition, amendment and/or repeal of any  
55 rules or regulations necessary for the implementation of this act on its  
56 effective date are authorized to be made on or before such date.